



State of Utah

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Department of
Environmental Quality

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DIVISION OF AIR QUALITY
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Director

DAQ-085-08

MEMORANDUM

TO: Air Quality Board

THROUGH: Cheryl Heying, Executive Secretary

FROM: Kimberly Kreykes, Environmental Planning Consultant

DATE: November 18, 2008

SUBJECT: PROPOSE FOR PUBLIC COMMENT: Amend R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards.

R307-101-3 contains the incorporation date for many of Utah's Division of Air Quality (UDAQ) Rules. R307-840 references R307-101-3 for its incorporation date of 40 CFR.

On April 22, 2008, the Environmental Protection Agency (EPA) published changes to 40 CFR Part 745 titled Lead; Renovation, Repair, and Painting Program (Vol. 73, No. 78, Tuesday, April 22, 2008, Page 21691-21769). This change created a new federal regulatory program that would implement a program that UDAQ does not currently have EPA authority to administer.

Due to issues raised with the mentioned EPA 40 CFR revision, the effective date of the document incorporated by reference needs to remain July 1, 2007. This rulemaking action proposes the removal of references to R307-101-3, and states the effective date of 40 CFR used in R307-840 as July 1, 2007.

Staff Recommendation: DAQ staff recommends that the Board propose the amended R307-840 for public comment.

R307. Environmental Quality, Air Quality.**R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards.****R307-840-1. Purpose and Applicability.**

(1) Rule R307-840 establishes procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and work practice standards for performing such activities. This rule also requires that, except as outlined in (2), all lead-based paint activities, as defined in this rule, must be performed by certified individuals and firms.

(2) R307-840 applies to all individuals and firms who are engaged in lead-based paint activities as defined in R307-840-2, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

(3) Each department, agency, and instrumentality of the executive, legislative and judicial branches of the Federal Government having jurisdiction over any property or facility, or engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural, including the requirements of R307-840 regarding lead-based paint, lead-based paint activities, and lead-based paint hazards.

(4) While Rule R307-840 establishes specific requirements for performing lead-based paint activities should they be undertaken, nothing in R307-840 requires that the owner or occupant undertake any particular lead-based paint activity.

R307-840-2. Definitions.

(1) Definitions found in 40 CFR 745.63, 40 CFR 745.83, and 40 CFR 745.223, effective as of July 1, 2007 [~~the date referenced in R307-101-3~~], are hereby adopted and incorporated by reference, with the substitutions found in (2) below and the modifications found in (3) below.

(2) Substitutions.

(a) Substitute "the Executive Secretary" for all references to "EPA" except in the definition of "Pamphlet" found in 40 CFR 745.83 and in the definition of "Recognized laboratory" found in 40 CFR 745.223.

(b) Substitute "the Executive Secretary" for all references to "Administrator".

(3) Modifications.

(a) Delete the definition of "Administrator" found in 40 CFR 745.83.

(b) Modify the definition of "Pamphlet" found in Sec. 745.83 by deleting ", or any State or Tribal pamphlet approved by EPA pursuant to 40 CFR 745.326 that is developed for the same purpose".

(c) Delete the definition of "Lead-based paint hazard" found in 40 CFR 745.223.

(d) Modify the definition of "Business day" found in Sec. 745.223 by including "and State of Utah" before "holidays".

R307-840-3. Accreditation, Certification and Work Standards: Target Housing and Child-Occupied Facilities.

(1) The following requirements, effective as of July 1, 2007~~[date referenced in R307-101-3]~~, are hereby adopted and incorporated by reference, with the substitutions found in (2) below and the modifications found in (3) below:

(a) 40 CFR 745.61, 745.65, 745.80, 745.81, 745.82, 745.85, 745.86, 745.88, 745.225(a) through (g) and (i), 745.226 (a) through (h), 745.227, and 745.233.

(2) Substitutions.

(a) Substitute "the Executive Secretary" for all references to "EPA" with the following exceptions:

(i) Sec. 745.65(d).

(ii) Sec. 745.86(b)(1).

(iii) Sec. 745.225(b)(1)(iii), Sec. 745.225(b)(1)(iv), Sec. 745.225(c)(2)(ii), Sec. 745.225(c)(10), Sec. 745.225(e)(5)(iii), and Sec. 745.225(e)(5)(iv).

(iv) The last reference to EPA in Sec. 745.226(a)(1)(ii) and the second reference to EPA in Sec. 745.226(d)(1).

(v) The first three references to EPA in Sec. 745.227(a)(3), and the reference to EPA in Sec. 745.227(a)(4), Sec. 745.227(e)(4)(vi)(D), Sec. 745.227(e)(4)(vi)(I), and Sec. 745.227(f)(2).

(b) Substitute "the Executive Secretary or the Executive Secretary's authorized representative" for references to "EPA" in Sec. 745.225(c)(12), Sec. 745.225(f)(4), and Sec. 745.225(i)(1).

(c) Substitute "the Executive Secretary" for all references to "Administrator".

(d) Substitute "R307-840" for "either Federal regulations at Sec. 745.226 or a State or Tribal certification program authorized pursuant to Sec. 745.324" in Sec. 745.82(b)(3).

(e) Substitute "R307-840" for "either Federal regulations at Sec. 745.226 or an EPA-authorized State or Tribal certification program" in Sec. 745.86(b)(1).

(f) Substitute "Sec. 745.82(b)(3)" for "Sec. 745.82(b)(iv)" in 40 CFR 745.86(b)(1).

(g) Substitute sample certification language found in Sec. 745.88(b)(2)(ii) with that found in Sec. 745.88(b)(2)(i).

(h) Substitute sample certification language found in Sec. 745.88(b)(2)(i) with that found in Sec. 745.88(b)(2)(ii).

(i) Substitute "the current Department of Environmental Quality Fee Schedule" for references to "Sec. 745.238" in Sec.

1 745.225(b)(4), Sec. 745.225(f)(3)(v), Sec. 745.226(a)(6), Sec.
2 745.226(e)(3), Sec. 745.226(f)(6), and Sec. 745.226(f)(7).

3 (j) Substitute "Utah Division of Air Quality electronic
4 notification system" for "Agency's central data exchange (CDX)" in
5 Sec. 745.225(c)(13)(vi), Sec. 745.225(c)(14)(iii), and Sec.
6 745.227(e)(4)(vii).

7 (k) Substitute "Notification Form" for "Schedule" in Sec.
8 745.225(c)(13)(vi).

9 (l) Substitute "Utah Division of Air Quality Lead-Based
10 Paint Program web site" for "NLIC at 1-800-424-LEAD(5323), or on
11 the Internet at <http://www.epa.gov/lead>" in Sec.
12 745.225(c)(13)(vi), Sec. 745.225(c)(14)(iii), and Sec.
13 745.227(e)(4)(vii).

14 (m) Substitute "Verification Form" for "Course Follow-up" in
15 Sec. 745.225(c)(14)(iii).

16 (n) Substitute "Utah lead-based paint firm" for "EPA" in
17 Sec. 745.227(e)(4)(vi)(D).

18 (o) Substitute "Utah lead-based paint individual" for "EPA"
19 in Sec. 745.227(e)(4)(vi)(I).

20 (p) Substitute "Lead-Based Paint Abatement Project
21 Notification" for "Notification of Lead-Based Paint Abatement
22 Activities" in Sec. 745.227(e)(4)(vii).

23 (q) Substitute "Sec 745.65(b)" for "Sec 745.227(b)" in 40
24 CFR 745.227(h)(2)(i).

25 (3) Modifications.

26 (a) Change the date in Sec. 745.81 to October 1, 2005.

27 (b) Change the date in Sec. 745.226(a)(5), Sec.
28 745.226(d)(2), Sec. 745.226(f)(1), and Sec. 745.227(a)(1) to
29 August 30, 1999.

30 (c) Modify Sec. 745.225(b)(1)(iii) by deleting "or training
31 materials approved by a State or Indian Tribe that has been
32 authorized by EPA under subpart Q of this part,".

33 (d) Modify Sec. 745.225(b)(1)(iv) by deleting "or training
34 materials approved by an authorized State or Indian Tribe".

35 (e) Modify Sec. 745.225(c)(2)(ii) by including "Executive
36 Secretary-accredited," before "EPA-accredited".

37 (f) Modify Sec. 745.225(c)(13)(v)(B) and Sec.
38 745.225(c)(14)(ii)(A) by deleting "EPA accreditation number,".

39 (g) Modify Sec. 745.225(c)(14)(ii)(F) to include "Utah
40 Division of Air Quality Lead-Based Paint Program training
41 verification statement".

42 (h) Modify Sec. 745.225(e)(5)(iii) by deleting "or training
43 materials approved by a State or Indian Tribe that has been
44 authorized by EPA under Sec. 745.324 to develop its refresher
45 training course materials,".

46 (i) Modify Sec. 745.225(e)(5)(iv) by deleting "or training
47 materials approved by an authorized State or Indian Tribe".

48 (j) Modify Sec. 745.226(a)(1)(ii) by including "EPA or"
49 after the word "from".

50 (k) Modify Sec. 745.226(f)(7) by deleting "every 3 years".

51 (l) Modify Sec. 745.227(a)(3) by deleting "Regulations,

1 guidance, methods, or protocols issued by States and Indian Tribes
2 that have been authorized by EPA;".
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4 **KEY: air pollution, paint, lead-based paint**

5 **Date of Enactment or Last Substantive Amendment: February 8, 2008**

6 **Notice of Continuation: February 8, 2008**

7 **Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(i)**
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